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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,245	07/09/2001	Riccardo Evangelisti	D-42837-01-US	4974

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EXAMINER

STASHICK, ANTHONY D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/830,245

Applicant(s)

EVANGELISTI ET AL.

Examiner

Anthony D Stashick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 02 December 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 22-26, 32, 38 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Furukawa 4,869,050. Furukawa '050 discloses all the limitations of the claims including the following: a vacuum packaging machine (see Figure 4) comprising a vertical stack of vacuum chambers 103 each arranged to receive at least one unsealed product package 130; the chambers operable to perform an independent vacuum sealing operation on the product package; a conveyor arranged to load and unload the chambers (conveyors to load or feed-in and unload or feed out are 106, 107 respectively); the machine being operable to operate respective vacuum chambers while conveyor is operated to load and unload other chambers (chambers not adjacent 106 or 107 are in the sealing stage while those at 106 and 106 are at the loading/unloading stage); the machine and conveyor are arranged to load and unload vacuum chambers in a cyclical sequence (that which follows the rotation of the chambers and synchronously to operate the vacuum chambers on the product (loading and unloading occurs at those chambers adjacent 106 and 107 at the same time that sealing occurs at those chambers not adjacent 106 and 107); the number of chambers is sufficient to the duration of the vacuum sealing operation allowing the conveyor to operate continuously (i.e. when the chambers reach 106, a package can be placed within the empty chamber and when the chamber reaches 107, the chamber can have the sealed container removed, thereby emptying the chamber for movement to 106); chambers can be added or removed (remove from arm or place on arm); vacuum chambers are movable relative to the conveyor (see Figure 4) to select the vacuum chamber to be loaded or unloaded at 106 and 107 respectively.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 30, 31, 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa 4,869,050, as applied to claims 22 and 26, in view of Mugnai 4,471,599. Furukawa '050 discloses all the limitations of the claims as applied to claims 22 and 26 above, including the vacuum chamber having a base and cover wherein the cover is fixed and the base moves (see Figure 4) but does not disclose the vacuum chambers having an internal conveyor and sealing bar for sealing the product package. Mugnai '599 teaches that a vacuum chamber 1 can have an internal conveyor (5, 31), which allows for the product to be easily moved into and out of the chamber. Mugnai '599 also teaches that the chamber can contain a sealing bar 18 that aids in sealing the package during the vacuum phase. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to place a conveyor and sealing bar, such as that taught in Mugnai '599, in the vacuum chambers of Furukawa '050 to allow for easy entrance and exit of the product package with the feed-in and feed-out conveyors as well as to seal the mouth of the bag with the sealing bar during the vacuuming operation.

5. Claims 27-29 and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa 4,869,050 as applied to claims 26 and 32 above, in view of Bonnet 6,227,377. Furukawa '050 discloses all the limitations of the claims, including the spacing between the vacuum chambers, but does not disclose the multiple feed-in and feed-out conveyors, the vertical movability of the feed-in and

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feed-out conveyors. Bonnet '377 teaches that a conveyor can be vertically adjusted to allow for the conveyor to be selectively positioned at different vertical levels in a feed-in and feed-out operation. Therefore, it would have been obvious, to make the feed-in and feed-out conveyors of Furukawa '050 vertically adjustable to place the feed-in of the chambers and the feed-out of the chambers at any level where the chambers may stop in rotations. With respect to the multiple in and out conveyors and the modular ability, it appears to be a mere matter of design choice and product demand as well as a mere matter of duplicity and time needed to seal the packages in the vacuum chambers to have more than one feed-in and feed-out conveyor.

#### *Response to Arguments*

6. Applicant's arguments filed December 2, 2002 have been fully considered but they are not persuasive. Applicant argues that the chambers of Furukawa '050 are not vertically stacked. This argument is not clearly understood. Applicant states in lines 8-12 of his arguments under 35 U.S.C. §102 "Vertically stacked vacuum chambers are illustrated in Figures 2 to 5 of the application. Therefore, "vertically stacked" means on top of the other, like the floors in a building; not necessarily one touching the other...". Since the vacuum chambers of Furukawa '050 are located one above the other, not necessarily touching, they meet this limitation as argued by the applicant. It appears that applicant is arguing more than that which is claimed. The claims do not require that the stacking of the chambers be permanent, only that they are stacked, which is met by Furukawa '050 as seen in Figure 4. With respect to applicant's arguments that Bonnet does not show the use of multiple conveyors that vertically move, this argument is not clearly understood. Clearly, as seen in Figure 3 of Bonnet, the conveyor moves in a vertical direction, thereby meeting the "moving vertically" limitation in the claims.

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*Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Stashick whose telephone number is 703-308-3876. The examiner can normally be reached on Tuesday through Friday from 8:30 am until 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this

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application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Informal Fax for 3728	(703) 308-7769

If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov/">http://www.uspto.gov/</a>



Anthony D Stashick  
Primary Examiner  
Art Unit 3728

ADS  
February 21, 2003